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ICANN71 | Virtual Policy Forum – GNSO EPDP Phase 2A Community Update and Consultation  
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TERRI AGNEW:

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With that, I’ll hand the floor back over to our EPDP P2A chair, Keith Drazek. Please begin.

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KEITH DRAZEK:

Thank you very much, Terri. And good morning, good afternoon, and good evening everyone. I'm Keith Drazek. I am the current chair of the EPDP Phase 2A work that has just concluded its first phase of development of an initial report that is currently out for public comment.

Our agenda for today is essentially to introduce where we are with regard to the initial report to identify the five key questions that we, as the EPDP team, have posed to the ICANN community looking for feedback and then to do some wrap up.

We only have one hour today, so I'm going to be brief in my introductory remarks and then I'm going to hand over to five of our EPDP team members to introduce the five specific questions that have been posed in the initial report.

So we will get to that momentarily, but I want to note that the first presenter from our team will be Alan Greenberg. Alan comes from the ALAC. Second presenter will be Mark Svancarek from the Business Constituency. The third will be Brian King from the Intellectual Property Constituency. Then Volker Greimann from the Registrar Stakeholder Group. And Laureen Kapin from the GAC.

So, I just want to thank each one of them in advance for the contributions that they'll make today as well as the significant contributions they in particular and also our colleagues on the EPDP team have made over the last five months.

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So, with that, let's go ahead and get started. We'll go through the welcome and introduction here very quickly, and then as I noted, we'll have five key items to introduce that are the key open questions for community feedback.

So, essentially, there are two key topics that were tasked to the EPDP Phase 2A team by the GNSO Council that came from the EPDP Phase 1 and EPDP Phase 2 work. So, essentially, just for those who have not been following this very closely, the work that we're conducting today in the Phase 2A is essentially a carry-on or carry-over from work that had been previously done in the earlier phases of this work but were essentially not concluded.

There was a recognition I think at the GNSO Council and in the community that some additional work needed to be done on these two key questions and that's the task of this EPDP Phase 2A.

The first of those is to focus on the differentiation between legal and natural persons data under GDPR. So the two key questions that were posed to the EPDP 2A team in the charter given to us by the GNSO Council are on the screen before us and I'll just summarize real quick.

The first is whether any updates are required to the EPDP Phase 1 recommendation on this topic, which states that registrars and registry operators are permitted to differentiate between registrations of legal and natural persons but are not obligated or required to do so.

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And then the follow-on question is: what guidance, if any, can be provided to registrars and/or registries who differentiate between the registration of legal and natural persons?

So, the first bucket is essentially this question of the differentiation between legal and natural persons data in the context of the RDDS or WHOIS.

The second question posed to the team is on the feasibility of unique contacts and whether a uniform anonymized e-mail address is possible or applicable. And the key sub-questions there are whether or not unique contacts to have a uniform anonymized e-mail address is feasible, and if feasible whether it should be a requirement. And then if feasible not a requirement, what guidance, if any, can be provided to contracted parties who may want to implement uniform anonymized e-mail addresses?

So those are the two key questions with their sub-questions, but the two key areas of focus for the EPDP Phase 2A and we'll get into the details here shortly. Next slide, please.

So, as I note, the EPDP Phase 2A was chartered at the end of 2020 and the group has been working in earnest over the last four or five months to develop and deliver this initial report for public comment and public feedback. The public comment period was opened on June 3<sup>rd</sup> and the public comment period is open for 45 days until the 19<sup>th</sup> of July.

The initial report should be seen mainly as a tool to solicit community input on areas where there remains significant different divergence or

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differences, and I should note that there is still quite some difference of opinion within the EPDP Phase 2A group on the questions that are before us.

I should note that when you see the term “recommendation” or “preliminary” or “draft recommendation” in the initial report, I just want to make it clear that the team has not come to any conclusion at this point as to whether there will be consensus on the recommendations that are being considered today. So it’s very, very important that the community provide us, the EPDP team, additional feedback, especially in areas where the team may not have considered something or whether there may be new information or some additional perspectives that could help the team come together and to bridge the gaps so that we might be able to reach consensus recommendations, whether those are consensus recommendations for new requirements in terms of a consensus policy or whether it could be guidance for registrars and registries who choose to differentiate or choose to use email for contactability.

So, noting in the initial report where applicable the differing positions of the groups and the individuals participating on behalf of their groups in the EPDP have been reflected in the report. So it is important that, as you’re considering input and feedback, that you do read the entire document because the context there is very important.

The specific questions that the EPDP team is looking for input on have been called out in relation to each of the preliminary recommendations and commentors are encouraged to focus their input on these

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questions as well as to make specific proposals for what changes or additions the EPDP team should consider as we do the analysis of public comments, take that on board, and then shift to the development of actual recommendations that would be incorporated in a final report.

The timeline, again, is the public comment period will close 19 July and the target at this point for the group, following the analysis of public comments, is to deliver a final report, assuming there is a path towards consensus by or around the end of August. Next slide, please.

So, we're now going to switch to the actual substance of discussion. The intent of these presentations today is to update you, the community, as to where we, the team, are and really to just establish what the situation is today and to call out the key questions that the group is looking for feedback on.

So, again, just to remind all, this first bucket is legal versus natural and the key question in this section is whether any updates are required to the EPDP Phase 1 recommendations on this topic that provide for optionality for differentiation but not a requirement to do so. Next slide, please.

And with that, I am going to turn to Alan Greenberg for introduction of preliminary recommendation 1 and question 1 for the community. So, Alan, over to you.

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ALAN GREENBERG:

Thank you, Keith. GDPR, which has driven this whole process, applies only to the information, the data of natural persons. The temporary spec, the interim contractual requirements that the Board approved, allowed registrars and registries to differentiate but did not require, and that's how we got into this whole process.

This was part of the original PDP to discuss ... Due to time constraints, remember the temporary spec could only last for one year and Phase 1 of the EPDP had some very tight time constraints because of that.

As a result, we never really got around to fully discussing, including considering legal advice, on that issue and it was deferred to Phase 2.

Phase 2 was also time constrained for different reasons. It was constrained because of policy within the GNSO and funding constraints from ICANN Org. And as a result, it never quite made it to the table to fully discuss, even though by that time we did have significant legal advice on it.

And thus, here we are, as Keith said, the GNSO Council decided it still warranted some discussion and we're here back at Phase 2A.

Where we are right now, as Keith said, the group is very, very divided on this. There are a number of reasons for that. If you look at it from a contracted party point of view, concept of formally differentiating and requiring differentiation is a really difficult issue.

And I should note that following the implementation of the temporary spec, essentially all information, with very few exceptions about

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registrants disappeared from the public WHOIS and that's made life considerably difficult for some people, some entities.

From a contracted party point of view, we're talking about a huge number of existing registrations, something in the order of 200 million. It is not necessarily trivial to determine whether an entity is a legal entity or not or is a natural person. Interactions with registrants is notoriously difficult. You can send an email but that doesn't mean you get an answer and GDPR is pretty specific on requiring positive assent to agree to something, not just [inaudible] ignoring of input.

And of course there is the possibility that the registrant is a legal entity but the data might include some sort of personal data in it. Perhaps I may be the contact person and if alan.greenberg is the e-mail address, that could be construed as personal information and it's not clear how one could get approval of that.

On the other side, as I said, the RDDS essentially has gone blank for much of the information that's needed to address issues of cybercrime, intellectual property protection, fraud, consumer protection. There's a whole host of things that have used this data in the past and now, effectively, it's not available. Some of it may be available through the SSAD, the results of Phase 2, if and when that happens. But that's still far in the future.

So, at this point, we essentially are deadlocked, pending new information from the comment period. As Keith mentioned, there was significant controversy over the fact that we in fact had a recommendation, even a preliminary recommendation in this case. The



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recommendation says ... If the recommendation were to continue and receive consensus, it says that we have consensus that no changes are recommended. I personally think that's very unlikely that we're going to end up having consensus on that and we will probably end up either making a formal decision because of new information or perhaps end up being deadlocked and that's why we are certainly looking for comments from the community on how to proceed forward at this point.

So, bottom line is should we be making that differentiation? And if so, are there any subtle details? One of the things discussed in the past has been we should do it at least for new registrations where there is contact with the registrant and then figure out how to do it for all the existing ones.

The other bit of current events that may be affecting this in the future is the European community is considering new recommendations related to network and information security (NIS2); and that, if it goes forward as it's currently drafted, that would require registrants to differentiate between the types of registrants and data and they must publish the data associated with legal entities.

That, of course, is currently being discussed. It has yet to be approved by the European Community Council nor the European Parliament. Once something does come out of those groups, it [inaudible] national legislation in all of the EC countries to actually enact it.

So, that may significantly affect how we go forward, but right now it is just a proposal and cannot be acted on as such. There will be an

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interesting question. If we end up with NIS2 going into effect as discussed now, we could potentially have a very unequal playing field that is those subject to European legislation will have to do one thing and the others may not have to.

So, it's going to be an interesting world going forward. Thank you.

KEITH DRAZEK:

Thanks very much, Alan. I should have noted administratively at the outset that after we get through our five introductory bits here on the five questions, we will have a Q&A and an open mic, essentially, so if folks would like to prepare their questions and to get in, there's a chat pod. Actually, I should note that there is a Q&A pod, so please put your questions in there and we can make sure that the questions are read. But if you do have questions or input, please use or utilize the Q&A pod to make sure that we capture those and that we have some order in terms of our trying to address those. So, thanks for that, Alan. Much appreciated.

I'm going to now turn to Mark Svancarek for an introduction on number two. Mark?

MARK SVANCAREK:

Thanks. This is Mark. Question number two is related to relevant legislative changes. GDPR is the regulation that has inspired the EPDP but there are many other regulations that may have influence on how we treat this data. There is the Digital Services Act, the Digital Markets

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Act, the second additional protocol to the Budapest Convention, and of course the NIS2 directive.

So, in each of these cases, there are some aspects which may have impact on the domain name services industry in general or handling of domain name contact registration data in particular.

It was requested that we have the GNSO Council track these regulations as they come down the line, analyze them and perhaps inform people in the community that these things are coming and what impact they might have. This was not a controversial position within the EPDP, although there was some debate about what level these things should be tracked and reported on and what outcomes we should expect from it.

So, the question is: is this recommendation necessary for the GNSO Council in considering future policy work in the area, and if yes, in what ways does this monitoring assist the Council? I don't think that a lot of additional color is required on this one. As I said, I think it's fairly self-explanatory and probably not very controversial.

KEITH DRAZEK:

Yeah. Thanks very much, Mark. Very concise and spot-on. I think the key question for the community here, as you noted, is should the EPDP Phase 2A team in our report—final report—recommend to the GNSO Council that it track these additional external inputs. Or would the GNSO Council essentially be doing that anyway? I think that sort of boils down the question. Is it necessary for the team to recommend to the

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Council that these external inputs be tracked, acknowledged, considered as possible future policy work takes place? So, Mark, thanks very much for that.

So, I will now turn to Brian King for the introduction of question number three. Brian?

BRIAN KING:

Thanks, Keith. [inaudible] on mute. If I can be heard, I will continue. I see your face and your thumb. Thanks. So, let's jump in.

So, preliminary rec 3 and question 3. So, this concept I felt was a clever one. It is perhaps the area where I think we are most likely to be able to eventually find consensus once we have public comments and have the opportunity to think this through and to talk this through fully as an EPDP team.

So, the concept here is to introduce a new data element in the WHOIS, in the registration data output. We're talking about, we're considering whether that would be a mandatory thing or a voluntary thing for contracted parties or perhaps voluntary to do. But if you do it, you have to do it in a consistent way.

So, we're kicking around some of those options. And the concept here is that there would be a data element that's publicly available in the RDS data to anyone, so in the thick WHOIS so to speak, in the sense that it's available publicly with policy questions about whether it's transferred to the registry or submitted in the data escrow like the rest of RDS data is.

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But the concept here is there would be either one or two different almost binary options that can be based on what the data subject tells you about the registration data. You are the registrar in that sense.

So, the concept is that we provide registrants with the opportunity to designate at the time of registration or at some future time to tell the registrar whether the domain is owned by a human being—an actual person, someone with a mother—or a legal entity, something like a business or some other organization or association, leaving the option for unspecified if the question is confusing or for the treatment of existing domain registrations until the registrant is able to make a designation.

So the concept is that we capture is the domain owned by a human or a legal entity? Then also does the RDS data contain the data of a human or another legal entity? So, someone registered a domain and said, well, Microsoft owns it but our contact person is Mark Svancarek for this domain. Scary concept, but if that were the case, then they could put that in the WHOIS data.

The GDPR would probably still require protection of that data because it has personal data in the WHOIS record. That's not absolutely sure, but probably. So the concept is if we had two of those fields and made that publicly available, that would be helpful for a few different reasons.

One, it could help the public or whoever needs to use this WHOIS data determine the accuracy of that designation. So making it public allows somebody who is investigating a phishing attack or something that's

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processing that WHOIS data to say, okay, they said it was personal data, but it looks like the registrant that's publicly available is a corporation, so maybe I should follow up with the registrar or the registrant to see if they got that right. Maybe the data is inaccurate. So it would serve as a public indication of how that representation was made and how accurate that data is.

Another reason why several of us think it's a good idea—and I'll give a fair and balanced assessment here of what... And full disclosure, I think this is a good idea and should be mandatory. There are others that disagree and that's fine and we'll talk about that, too.

But the other reason that we think that this is doable and a good idea is because in the second phase of the EPDP, we talked about automation and we talked about the concept of automating disclosure of WHOIS data through the SSAD when a registrar had already done a manual review, somebody else had requested it or a requestor needed the data again and the registrar had already reviewed the data and noted that there was no natural person data there. It was all legal person data. Well, the next time you don't need to do that review again manually, right? That should be automated. So that's something that we all agreed in the second phase of the EPDP.

So, what that requires is for registrars to have some kind of flag or indication once they've made that manual review one time, so that the future requests for data related to that domain name would be automated.

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So, the argument that we've made is that you're going to have to do this anyway. You're going to have to do some designation of whether the data is a legal person data or a natural person data for the purposes of automating future requests. If you want to look it up, it's recommendation 9.4.4 in the EPDP Phase 2 final report.

So, that doesn't cover the totality of whether contracted parties should have to publish that field or whether it should be in the public RDS, but we do know that they're going to have to do some kind of mandatory differentiation anyway to facilitate that automation.

A couple of other points that we made. There was a concern raised that publishing this data would increase risk to the contracted parties. I'm not so sure. I don't think we got a real explanation and we can open up Q&A and we'll discuss this further, but the flag alone on whether the data is personal or not is not personal data and what would be considered personal data for the purpose of data protection law. So that shouldn't increase or add any risk to the contracted parties, the registries and registrars that would institute this field.

The final point that we made is that one thing that I realized right before this call is that I don't think we discussed even whether if this field was published in public that the data would need to be published accordingly.

So, I think we haven't really unpacked the bizarre concept of publishing this field, even if the contracted party has decided that they won't distinguish and publish the legal person data. Kind of a strange concept, but we haven't really unpacked whether we could make the

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field mandatory and public but still not require the contracted parties to publish the data. That was kind of a bizarre concept to think about but it's one that we probably need to unpack and we'd love to get some public comments on.

So, we have the questions on the screen specifically what we're looking for about whether this should be allowed or required or harmonized and we'd love public comment and feedback on those things.

So, let me turn it back over to Keith and I'll be happy to take questions later on any of this.

KEITH DRAZEK:

Thanks very much, Brian. Again, just to summarize here, I think the key question here is should there be a capability to differentiate in terms of a new standardized data element or data field? Then the follow-on questions are: if so, then what?

So, I think this is an important question where we really are seeking further input from the community to help inform the group's continued deliberations on this.

Again, I just want to reinforce for all five of these questions, the group has not reached consensus. We did not do a consensus call or a consensus test on any of this. We essentially worked as a team to develop the initial report to a point where it would be suitable for publication to the community to solicit further input. So I just want to make that very clear to everybody that these are still open questions and further input from the community is what we need at this point to



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try to figure out the path forward, and really to determine and assess whether consensus could still be possible. And that is an open question. So, thank you, Brian.

Volker, I'm going to turn to you next for introduction of question number four.

VOLKER GREIMANN:

Thank you, Keith. Also, thank you, Brian, for teeing this up.

Question four is mainly focused on the guidance that we are providing for those contracted parties who decide to differentiate. As you know, we have heard before, we couldn't get to a consensus whether differentiation should be required or not. So, the next best thing is to basically give an indication to those parties that are considering to differentiate or see some benefits in differentiating. How to best do that.

And by that, we have given a few points of guidance. I'm not going to read through them. They are all in the report. And ultimately, they lead to a certain set of questions. Basically, these questions are, have we missed anything? Have we missed any arguments for further guidance? And I would ask the respondents there that they read through the entire report so as to not reiterate the extensive discussions that we had on this topic already.

I think many arguments have been raised and we are currently looking for new arguments that have not been raised that we might have overlooked. So, basically, the questions boil down to, is this guidance

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sufficient for contracted parties or would contracted parties need further guidance on how to differentiate and how to protect the rights of the customers that happen to be natural persons? Have we overlooked something with regards to the elements that should be included in this consideration? Have we overlooked any legal or regulatory considerations that might be applicable to contracted parties in certain parts of the world that we didn't focus on?

And the final question is whether—if a party voluntary decides to differentiate between legal and natural registrants, should this guidance then become enforceable i.e. required? There's been a lot of discussion on that. And obviously, there is a certain disincentive to this differentiate if you are suddenly becoming subject to compliance.

But still, that's something that we would like to have your opinion on. And the more details you can provide as to why with regards to points that we might have missed and questions we have not asked, the more it would be welcome. Thank you.

KEITH DRAZEK:

Thanks very much, Volker. This is Keith Drazek again. So, a great overview of this question. And I do want to note that, in a number of the different questions, and as we're talking about this question of—for those that should differentiate or choose to differentiate, how they should handle it, there are references to the SSAD. And just for everybody's benefit especially if you haven't been following the EPDP closely, the SSAD is the Standardized System for Access and Disclosure. Those consensus policy recommendations were the result of the EPDP

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Phase 2 work. And that is currently subject to an operational design phase review and still under consideration by the ICANN Board.

But one of the key questions that the EPDP 2A team acknowledged, has not fully grappled with but acknowledged is, could there be some benefit or interrelation between the work of this group on the question of legal and natural and the inclusion of a standardized data element as it relates to SSAD and/or as discussed earlier, are there other legislative regulatory developments that need to be considered or taken on board as we look at these issues?

But I just wanted to circle back to that tie-in or that potential tie-in to the SSAD where we have consensus policy recommendations, have not been yet adopted by the ICANN Board and certainly haven't gone through an implementation process. And so, this is one of the key questions I think that the group needs to continue to consider following the public comment. And if there's any input that the community would like to provide us on that question, that would be very helpful.

So, Volker, thank you very much for that. And I will turn now to Lauren Kapin for an introduction of question number five. So, thank you. And I should note—Laureen, sorry, one second. I should note that we're switching gears here from the discussion of legal and natural to the question of the feasibility of unique contact. So, at the outset, I noted that there were two buckets of work that we're undertaking as the EPDP 2A team. And so, we're switching gears here briefly for coverage of the feasibility of unique contacts question. So, Laureen, thank you for your patience. Sorry.

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LAUREEN KAPIN: No worries. And because Volker was so pithy, before we quite switch buckets—I know he didn’t want to read everything that had already been set forth in the report, but one point that I think is also worth emphasizing is that the guidance that was provided was actually informed in large part by the legal advice we received from council with expertise in these areas. And some of that guidance is very specific and really focuses on making sure that the data registrant understands what a legal entity is. That’s not intuitive. Understands the consequences that their data may be published. And understands that they can control what data is published and avoid providing personal information.

So, I thought it’s worth saying that these are sort of the practical guidance that’s provided and that’s really based on the legal advice. But now I’m going to turn to the topic at hand.

KEITH DRAZEK: Laureen, if I may?

LAUREEN KAPIN: Absolutely.

KEITH DRAZEK: I apologize for interrupting again. But I just want to reinforce what you just said as it relates to the legal advice. I should have touched on that briefly earlier. And the fact that there was an ICANN org study that was

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conducted sort of during the previous work but wasn't really delivered in time for full consideration during the Phase 2 work.

And so, the EPDP Phase 2A team, our group, did consider additional legal advice as well as the results of the ICANN org study on the topic. So, I just wanted to—again, just to agree with Laureen, reinforce the point that there were new inputs that the EPDP 2A team did consider. And Laureen, thank you for flagging that. Back to you now.

LAUREEN KAPIN:

No worries. So, turning our attention to question five, an entirely different topic, this deals with anonymized email addresses. And I think it's worth taking just a brief step back as to how we got there. Essentially, with the temporary specification, no email addresses are visible in the publicly accessible WHOIS. And that's because that often consist of personal information. But there did need to be a way to contact the registrant in case of technical difficulties or other problems dealing with a domain.

So there was a requirement for a way to contact them and that was through the recommendations in Phase 1. And that included the use of a web form, so that there could be a way to contact the registrant. This question, recommendation five, deals with the issue of, whether in addition to that web form, there should be an anonymized email address that is also available. And that was a complicated and rather nuanced topic.

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The challenge here is how do you create an email address that relates to a particular registration or a particular registrant that really is truly anonymous. At least, as to the public. The contracted parties or the data controllers, they have this information and will be able to know who the registrant actually is. But the issue is vis-à-vis the public. How do you provide something that's anonymized so that it isn't personal information?

And we did receive some legal advice on this. And the lawyers advised that this would be quite challenging to actually provide an email address that is truly anonymized. So, challenging but not necessarily impossible. And indeed, one of the things that spurred this discussion was a recognition by data protection authorities that an anonymized email would actually be a privacy enhancing technique. And there's actually guidance that data protection authorities have given on a variety of measures that one could take to anonymize the data.

And this is a topic that I suspect will constantly be evolving i.e. there will be better and better techniques to do this successfully. So, this again, is something that was a topic of contention within the group. But what we came up with was a recommendation that again, is optional for the contracted parties. And this recommendation essentially says that if a contracted party chooses to publish either a registrant or registration-based email address in the publicly accessible RDS, that they should ensure that they use appropriate safeguards. And then we refer to relevant guidance on anonymization techniques provided by data protection authorities.

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So that leads to the question for your input. Does this guidance provide sufficient information and resources for those who wish to publish an anonymized registrant or registration-based email address?

And you'll hear that I use the word anonymized and that doesn't appear in the question explicitly. You can refer to the definitions here which actually defines registrant-based email and registration-based email with the concept of anonymization. But I think what's really important is despite the actual words used, this is all about anonymization. No one is recommending in this group to publish the actual email address of the registrant. What we are recommending is the option to publish an anonymized email address. So, this could have been more explicit, but I don't want anyone to be confused in that regard.

And with that, since we have a tiny bit of extra time, I think we'd be very remiss if we didn't acknowledge all the exceptionally hard work done by the staff supporting this policy development effort and the very able leadership by our chair who really corralled a lot of very diverse perspectives and sometimes animated discussions toward an actual result. And that is not so easy to do. So, we should all be very appreciative of the time and effort taken to get to this result.

KEITH DRAZEK:

Thanks very much, Lauren. And I fully support your comments about the staff. And also, thank you for the excellent overview and the context that you provided on question number five.

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I think the key takeaway on all five of these topics is that our work is not done. There is more work to be done within the EPDP team and it's really very important that we hear from the community broadly about these issues during this public comment period. And especially if people can focus on bringing new perspectives, new suggestions. If there's anything that the group may not have considered. Anything new that we should consider or anything creative that we ought to be considering in terms of being able to bridge the gaps that still exist among the team in terms of the different views and different positions is really what we're looking for at this point.

So, Laureen, thank you very much for that. Thanks to each of you for the introduction here. I'll note we have just over 15 minutes left in our scheduled time. So, I'd like to move us directly to a Q&A. And so, if anybody would like to submit a question in the Q&A pod, please do so. If you would prefer to raise your hand, we have the functionality to be able to call on you and open your microphone, if you would like to do that, and I'll turn to our staff colleagues for help there.

But let's do that right now. So, with 15 minutes left, let's take it to a Q&A session. Would anybody like to get in queue? Okay. I need to flip over to the attendees list. And certainly, before we wrap up—I'm hoping that we'll get some questions even if it's just clarifying questions about the presentation today. Understanding that I'm sure not everybody has read the full report as published. But we are here to answer any questions however high-level or basic. We're happy to take them on at this point. And I will turn to staff before we wrap up to see if our staff



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colleagues have anything else that they would like to say as we move to wrap up.

Terri, do we have anybody? I think I see a hand has gone up. Do we have anybody that—all right, Stephanie Perrin. So, let's turn to Stephanie for her question and/or comment.

STEPHANIE PERRIN:

Hi. Stephanie Perrin for the record. And oddly enough I have a comment in here. I'm just wondering, we have all said here that we are looking for the community to comment. I'm a little worried having survived many a group on this particular debate that we are going to get a lot of comments from a well-meaning public that have not debated the fine points of this as we all have for the past, in my case, eight years. And that we may get a lot of yes, yes, I want a—I don't mean to pick on the anonymization-pseudonymization example, but yes, why not have an anonymous email? Absolutely, give it to us. When in fact, it's actually a little more complicated than that.

Same thing with the legal versus natural persons. Those of us who actually provide advice on this to organizations know that it's not that easy. And neither is it stable over time as people move globally and may move into a jurisdiction that provides more privacy rights in that particular country for employees.

So, I pity the staff that are going to be going through these comments. If we get a whole barrage. I'm thinking of our previous group that was called the RDS Working Group prior to 2018, where we really were

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debating basic stuff that people just had not been informed on. Any thought on this? Thanks.

KEITH DRAZEK:

Sorry, I just realized I was on mute. Apologies. Stephanie, thank you for the question. From a logistics perspective, I can respond and then I'll turn to Volker and Laureen.

But the way that we have structured the public comment process is to provide forms for the submission of most of the input. But there still will be the opportunity for folks to provide freeform submissions. But really the hope here is that the community will use the forms to provide feedback that will help structure the review and the analysis of the comments.

And I think your point's a good one is that we have, as a team, been dealing with some fairly complex and nuanced discussions including legal advice that need to be considered in the public comment analysis. But I think at this stage, the questions have been posed. The context is there. There are exhibits in the initial report to the legal advice. So, for those who really want to dig in to the details, the resources are there. And certainly, I think if there are questions, clarifying questions then those can be responded to. But the forms should help us structure it and there is the opportunity for some freeform inputs.

With that, I'll turn to Volker and then to Laureen. Thank you.

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VOLKER GREIMANN:

Thank you, Keith. And thank you for your question, Stephanie. I personally think that we want answers. We want input from the community. Obviously, if the input that we get is just a reiteration of the debates that we have already had during the group discussions and does not add anything new to it, then we'll probably just answer that we have considered this and not adding anything new. That would be the end of it.

But I was surely hoping that we will get some responses that do add something new to the conversation and might make us or parts of us or some of us or all of us look at the information that we've had in presenting from a different side and different angle. And that is ultimately why we are undertaking this. That's why we are asking these specific questions that we are asking.

I would encourage staff to make sure that the summary that we get in the end will focus on the new information and kind of let the information that we've already had and that we've already discussed just be as a comment that this was also said again.

KEITH DRAZEK:

Yeah. Thanks Volker. You're absolutely right. And again, as has been noted also in the chat, we are looking for new input, not a restatement of previously well-trod positions. So, new information is really key for us at this stage. I'll go to Laureen next and then to Mark.

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LAUREEN KAPIN: I actually agree with almost everything Volker said. I think the nature of inviting public comment is inherently an optimistic enterprise. So, we're always hopeful that folks who submit comments are going to take the time to read the report and think about the complexities of the issues. And I'm optimistic that that will take place and I'm looking forward to the public comments. And the other thing I would say is that, usually, if that hasn't happened, it may be apparent by the face and content of the comment itself. And so, all will be revealed in that respect.

KEITH DRAZEK: Thanks very much, Lauren. Agreed. Mark, you're next.

MARK SVANCAREK: Thanks. This is Mark. I agree with what Volker and Lauren said. I do think that we should have some confidence in our community that they will be reading the report and submitting meaningful things and that staff will be able to respond in a coherent way or the EPDP team will be able to respond in a coherent way. I would just point out that we've been doing this now for about three years.

And you may recall, in the beginning, that there are many statements that we had to deal with over and over again such as the only lawful basis for processing is consent. Well, it's not and we used to hear that but now we don't hear that so much anymore because people have learned it.

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There are still some areas where there is a lot of confusion. Necessity, proportionality, and these can be debated. But I am confident that we are going to get a pretty high quality of feedback here from the community. I think we should give them the benefit of the doubt, not discourage them. That's all. Thanks.

KEITH DRAZEK:

Thanks, Mark. Completely agree. So, absolutely, we're very much looking forward to the community's input. And so, thanks for that. I'll note, there's a question in the pod from Rick Lane. The question is, what's a realistic timeline for a working system to be operational?

I'll just note that, that question is out of scope for the Phase 2A work that we're talking about here on legal and natural and the unique identifiers. I think you're probably referring to the SSAD which is the output from Phase 2 as I noted a few minutes ago. Well, that's been approved by the GNSO Council. It is pending consideration by the ICANN Board and is likely to be the subject of an operational design phase review.

And so, I don't have a good answer for you. But I just want to note that, that question is really out of scope for this particular team at least.

Mark, I see your hand up again. Is that a new hand or an old hand? I apologize. Okay. I think that was an old hand. Okay. Do we have anybody else in queue at this point? I don't see any other hands up and I don't see any other questions in the pod. Okay. Two more hands, Alan Woods and then Brian King. Alan.

ALAN WOODS:

Thank you very much, Keith. I'll just introduce myself. I'm Alan Woods. I'm one of the Registries Stakeholder Group representatives on this. Because there wasn't enough topics to go around, so I drafted myself into the panelist of [inaudible]. I just wanted to kind of maybe add a little thing on to what Volker was saying about he is particular of one that's about the guidance and the guidelines. And I think I want to put in this specific call to contracted parties. Lauren mentioned the legal advice, and that the legal advice that we have and that legal advice is absolutely—it provides good clarity as to what is the expectations under the law. And I think we need to be very clear on that.

I think what we also need to be [inaudible] would put out a request, I suppose to all contracted parties, those who are either represented by the Registries Stakeholder Group or those who are not and the same with the registrars or not. This is guidance that we are asking you. Does it have enough information? Does it have enough practical information for review to be able to go out there and say, I feel comfortable applying the terms that we have in this guidance or not as the case may be? Is it practical for an application to a business?

We are here doing a policy. We are very much focused on what at times can be quite academic and we are relying on these people and other representatives of the community to be able to bring this practical element of it. That's one of the things I would certainly encourage in the public comments is, look at what we've written and see, will this help

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you to differentiate or not. And then we can take that back and we can see if can have more discussions or not.

So, I just wanted to add that and thank you very much.

KEITH DRAZEK: Thank you very much, Alan. Very helpful input. And I'll turn next to Brian King. We have five minutes left. Brian, over to you.

BRIAN KING: Thanks, Keith. This is Brian for the record. I'm happy to answer the question that Ashley put in the Q&A pod. She says, thanks for the response. Just to put a finer point on it. IPC/NPC are arguing that the flag is necessary to implement already agreed functionality for the SSAD. But at the same time, these groups have put on the record non-support for implementing SSAD. Ashley's point of concern is that, that seems to be in conflict of and/or wanting to have both ways (not consistent).

And the response there, Ashley, is that the ability to comply with that 9.4.4 in the Phase 2 recommendations is one of four reasons why we think that that flag should exist and be public that I wrote down and covered today. So, it's just one of the four. And to put a fine point on it, the EPDP Phase 2 went along and published those policy recommendations then finalized them with the IPC and the BC and others saying that they weren't good enough yet. And that didn't stop them from going on.

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And the GNSO Council, having 8 of 18 recommendations without consensus, went ahead and adopted them and passed them on to the board anyway. So, I don't think you can blame us for trying to assume that things aren't going to go our way. And without any way to know what the board's going to do, I think it's perfectly reasonable to prepare for those policy recommendations being adopted. Thanks.

KEITH DRAZEK:

Thanks, Brian. So, we have four minutes left, folks. So, I want to just make sure that if there are questions related to the EPDP Phase 2A work, our initial report that's now public, the public comment period, any procedural questions that folks may have, let's make sure that we cover those in the last three to four minutes that we've got here. Any other hands?

And if there are no other hands, I am going to turn to our staff colleagues for any comments that they'd like to provide to us as the team and to the community. And then I'll make maybe 30 seconds of wrap up. So, anything from staff?

MARIKA KONINGS:

Keith, this is Marika. I'm sorry. I'm struggling finding my hand.

KEITH DRAZEK:

Go, ahead Marika. Thank you so much.



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MARIKA KONINGS:

I don't think we have anything in particular to add. Just to thank everyone that's participating here today and then all EPDP team members for their hard work. And we know we're asking a lot of you but we really appreciate all the time you've spent on the work that has been done. And just encouraging those that are listening, please provide your input to the public comment form. It's really important for the group to hear your views and hear new information, hear new proposals because that will really help inform deliberations in the next stage of work. So, thank you.

KEITH DRAZEK:

Yeah. Thanks very much. Brian, is that a new hand or an old hand? Old hand, okay. Okay. I don't see any other hands. So, folks, I'm going to just make a couple of wrap-up comments here and then we'll close the session.

I just want to note—and again, to thank everybody for the work that they've put in to this. As I said at the outset, this is a continuation of work that really began during the EPDP Phase 1. Was touched on during EPDP Phase 2. And I think the community generally and broadly recognize that we weren't complete with the work that had been done and then this really was worthwhile, spending community time and staff time and all of our volunteer time to further explore and to work on these two questions.

And that's what we're trying to do. We need your input and your feedback on where we are today. And the hope here is that we will find the path towards consensus in developing a final report with

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recommendations that could be requirements or could be guidance. Either one of those are acceptable in terms of a PDP output. But we're not there yet. There is still quite a difference of opinion among the group. Different positions of the various groups. And this is why it's really important that we get the input from the community at this stage.

We will do an assessment coming out of the public comment period analysis to get a sense as to whether additional months' worth of work is warranted. And this is our hope and this is our goal.

And so, I should also note just in closing that this group has been working under a very tight timeline. There was a recognition at the GNSO Council that this topic had been discussed before. This is not new work. It was simply incomplete work. And so, the council gave us a limited time to conclude the work and to basically be able to decide whether we as a group and we as a community could come to consensus.

And if the answer is no, then that's important information. And if the answer is no, it's not worth any of us spending more time and effort and energy talking about things where it's clear there is no consensus. So, we will have that decision point coming up following the public comment period and as we work to develop a final report.

This group has been implementing, thanks to the council, some of the PDP 3.0 improvements in terms of management. We are committed to delivering on time and on timelines. And I will acknowledge that has created some challenges in terms of the group's ability to do its work

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because I think a lot of folks are used to the old way of doing things where if you didn't get the work done on time, you got an extension.

And from a GNSO Council management perspective, and I say this, having been the GNSO Chair for a couple of years, we can't continue as a community operating in that old way. So, we now have some new rules, some new parameters, and we're working to deliver on those timelines.

So, I want to thank everybody for the work that you've put into this. Thank you to the community for the input that you will provide to us. And with that, we look forward to hearing from you and continuing the work of the group. And with that, we'll go ahead and wrap up and conclude the call. Thanks, everybody.

TERRI AGNEW:

Thank you, everyone. Once again, the meeting has been adjourned. We may stop the recordings now. Stay well, everyone. Bye.

**[END OF TRANSCRIPTION]**